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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CENTRAL EXCISE APPEAL NO.3 OF 2007

The Commissioner of Service Tax ..Appellant.

V/s.

M/s.Hutchinson Max Telecom Ltd. ..Respondent.

Mr.A.S.Rao with Mrs.N.V.Masurkar & H.P.Chaturvedi for appellant.

Mr.Jitu Motwani i/b. PDS Legal for respondent.

**CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.**

DATED : 1ST NOVEMBER, 2007.

P.C. :-

A penalty was imposed on the respondent. The respondent aggrieved preferred an appeal. The appeal preferred was dismissed. Aggrieved, the respondent preferred an appeal before the CESTAT. By an order dated 6/7/2001, that order was set aside. The Revenue did not prefer an appeal against the said order.

2. In the meantime, it appears that exercising his powers the penalty imposed was enhanced. The respondents being aggrieved preferred an appeal and the Tribunal by its order dated 7/12/2005 considering that

the earlier order dated 6/7/2001 where the penalty has been set aside, allowed the appeal, considering that the revenue had not preferred an appeal against the order dated 6/7/2001.

3. We find no fault with the order. The question of law as framed would not arise. Hence appeal is dismissed.

(F.I.REBELLO, J.)

(J.P.DEVADHAR, J.)